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**PATENT
Expedited Procedure
After Final Response
Under 37 CFR 1.116**

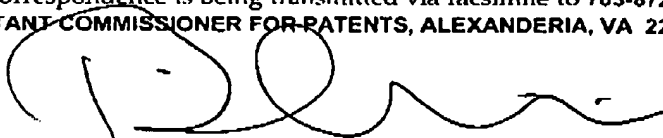
IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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Roland K. Bowler II

Applicant:	KOTZIN)	
)	Examiner W. Daniel
Appl. No.	09/909,206)	
)	Art Unit 2686
Confirm. No.	9769)	
)	Atty. Docket No. CS10423
Filed:	20 July 2001)	
Title:	"Methods for Mobile Communication Services Selection"		

**TRANSMITTAL FOR RESPONSE
TO NON-COMPLIANT BRIEF
UNDER 37 CFR 41.37(c)**

**RECEIVED
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JUN 14 2005

Assistant Commissioner for Patents

KOTZIN
"Methods for Mobile Communication
Services Selection"
Atty. Docket No. CS10423

Appl. No. 09/909,206
Confirm. No. 9769
Examiner W. Daniel
Art Unit 2686

Alexandria, VA 22313

Sir:

The following is enclosed in response to the Notification of non-compliance Appeal Brief mailed of 3 June 2005:

☒ Revised Appeal Brief under 37 CFR 41.37(c) (21 pages);

☒ Fee Calculation Sheet (NO FEE DUE).

Respectfully submitted,



ROLAND K. BOWLER II 13 JUNE 2005

MOTOROLA, INC.
INTELLECTUAL PROPERTY DEPT. (RKB)
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LIBERTYVILLE, ILLINOIS 60048

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TELEPHONE NO. (847) 523-3978
FACSIMILE NO. (847) 523-2350

FEE TRANSMITTAL				Complete if Known																																																																																																																																																						
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The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.				<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late Provisional filing</td></tr> <tr><td>1053</td><td>130</td><td>1063</td><td>130</td><td>Non-English specification</td></tr> <tr><td>1812</td><td>2520</td><td>1812</td><td>2520</td><td>For filing a request for ex parte Reexamination</td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIH prior to Examiner action</td></tr> <tr><td>1805</td><td>1840*</td><td>1805</td><td>1840*</td><td>Requesting publication of SIH after Examiner action</td></tr> <tr><td>1251</td><td>120</td><td>2251</td><td>60</td><td>Extension for reply within first month</td></tr> <tr><td>1252</td><td>450</td><td>2252</td><td>225</td><td>Extension for reply within second month</td></tr> <tr><td>1253</td><td>1020</td><td>2253</td><td>510</td><td>Extension for reply within third month</td></tr> <tr><td>1254</td><td>1590</td><td>2254</td><td>795</td><td>Extension for reply within fourth month</td></tr> <tr><td>1255</td><td>2160</td><td>2255</td><td>1080</td><td>Extension for reply within fifth month</td></tr> <tr><td>1401</td><td>500</td><td>2401</td><td>250</td><td>Notice of Appeal</td></tr> <tr><td>1402</td><td>500</td><td>2402</td><td>250</td><td>Filing a brief in support of an appeal</td></tr> <tr><td>1403</td><td>1000</td><td>2403</td><td>500</td><td>Request for oral hearing</td></tr> <tr><td>1451</td><td>1510</td><td>1451</td><td>1510</td><td>Petition to institute a public use proceeding</td></tr> <tr><td>1452</td><td>500</td><td>2452</td><td>250</td><td>Petition to revive - unintentional</td></tr> <tr><td>1453</td><td>1500</td><td>2453</td><td>750</td><td>Petition to revive - unintentional</td></tr> <tr><td>1501</td><td>1400</td><td>2501</td><td>700</td><td>Utility issue fee (or reissue)</td></tr> <tr><td>1502</td><td>800</td><td>2502</td><td>400</td><td>Design issue fee</td></tr> <tr><td>1503</td><td>1100</td><td>2503</td><td>550</td><td>Plant issue fee</td></tr> <tr><td>1460</td><td>130</td><td>1460</td><td>130</td><td>Petitions to the Commissioner</td></tr> <tr><td>1807</td><td>50</td><td>1807</td><td>50</td><td>Processing fee under 37 CFR 1.17(s)</td></tr> <tr><td>1808</td><td>180</td><td>1808</td><td>180</td><td>Submission of IDS</td></tr> <tr><td>8021</td><td>40</td><td>8021</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td></tr> <tr><td>1809</td><td>780</td><td>2809</td><td>395</td><td>Filing a submission after final rejection (37 CFR § 1.129(a))</td></tr> <tr><td>1810</td><td>790</td><td>2810</td><td>395</td><td>For each additional invention to be examined (37 CFR § 1.129(b))</td></tr> <tr><td>1801</td><td>790</td><td>2801</td><td>395</td><td>Request for Continued Examination</td></tr> <tr><td>1802</td><td>900</td><td>1802</td><td>900</td><td>Request for expedited examination of a design application</td></tr> </tbody> </table>		Large Entity		Small Entity		Fee Description	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1051	130	2051	65	Surcharge - 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Registration No. 33,477 Telephone 847-523-3978 Date 6-13-2005																																																																																																																																																										

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PATENT

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Applicant:	KOTZIN)	
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Appl. No.	09/909,206)	
)	Art Unit 2686
Confirm. No.	9769)	
)	Atty. Docket No. CS10423
Filed:	20 July 2001)	
Title:	"Methods for Mobile Communication Services Selection"		

REVISED APPEAL BRIEF
UNDER 37 C.F.R. § 41.37(c)

Assistant Commissioner for Patents
Alexandria, VA 22313

Sir:

Real Party In Interest

The real party in interest is Motorola Inc., by virtue of an assignment duly executed by the named inventor(s) and recorded in the Patent Office on 19 July 2001.

Related Appeals & Interferences

There are no related appeals or interferences.

KOTZIN
"Methods for Mobile Communication
Services Selection"
Atty. Docket No. CS10423

Appl. No. 09/909,206
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Examiner S. Balban
Art Unit 2686

Status of Claims

The appealed claims are Claims 1-13 and 15-20. Claim 14 has been canceled. A copy of the claims is appended in Appendix A.

Status of Amendments

An amendment under 37 CFR 1.116 was filed on 14 February 2005. An advisory action mailed on 10 March 2005 indicated that Applicant's after final amendment would not be entered, though the Examiner of record indicated later that a supplemental advisory action would be mailed confirming entry of the amendment.

Summary of Claimed Subject Matter

In one claimed embodiment, a mobile wireless communication device, page 2, lines 23-27, dynamically selects communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device by establishing communication objectives at the device for corresponding communications to be executed by the device, page 3, lines 12-16 and page 3, line 25 - page 5, line 3. The device selects one of the services for each communication to be executed by the device based on the corresponding established communication objectives, page 3, lines 17-24, and utilizes the selected communication service at least for the communication whose communication objective formed the basis upon which the communication service was selected, page 8, lines 11-14.

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In some embodiments, communication services are generally assessed relative to the communication objective. Assessment may occur by comparing service information received from the corresponding service providers at the device, for example, by determining which service optimally satisfies the specified characteristics of the communication to be executed. Page 6, lines 4-13 and page 7, lines 9-12. In one embodiment, a service is selected having service characteristics that most closely correlate with the weighted characteristics of the communication to be execute, page 7, lines 20-26. In one claimed embodiment, service information received from the service providers is stored at the device and updated, page 6, lines 16-18. In one claimed embodiment, a communication service is selected having service characteristics that most closely correlate with the weighted characteristics of the communication to be executed, page 7, lines 1-26. The claimed invention is most readily implemented in software on the device, page 4, lines 3-14 and page 5, lines 14-21. These and other aspects of the claimed subject matter is discussed more fully in the instant specification on page 2, line 18 through page 15, line 13 and is illustrated in FIGS. 1-5.

Grounds of Rejection for Review on Appeal

Claims 1-13 and 15-20 anticipated by U.S. Patent No. 6,516,192 (Spaur) under 35 USC 102(b).

Arguments

Summary of Examiner's Allegations

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Claims 1-13 and 15-20 stand finally rejected under 35 USC 102(b) for anticipation by U.S. Patent No. 6,516,192 (Spaur). Final Office Action, 3 November 2004, para. 3.

Discussion of Claim 1

Contrary to the Examiner's assertion, Spaur fails to disclose or suggest a

... method in a mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device, comprising:

establishing communication objectives at the device for corresponding communications to be executed by the device;

selecting one of the communication services for each communication to be executed by the device based on the corresponding established communication objectives;

utilizing the selected communication service at least for the communication whose communication objective formed the basis upon which the communication service was selected.

The communication system (10) of Spaur is not a "... mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device" The communication system (10) of Spaur is a network infrastructure entity that sends data to a remote station. The Examiner's references to various passages of Spaur do not support the rejection. At col. 5: 40 - col. 6: 19, Spaur discusses the architecture of the communication system (10). At col. 6: 52-67, Spaur

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discusses bi-direction communications between the system (10) and a remote station using a spread spectrum downlink and a cellular digital packet data (CDPD) uplink. At col. 13: 13 & 49-51, Spaur discusses the communication system (10) identifying the availability of channels based on the location of a mobile station. At col. 10: 41-61, Spaur discusses channel selection of the link selector (64) of the system (10). In Spaur, the communication system (10) selects the optimum network channel for a particular communication with a mobile device based on an analysis of application requirements or constraints that must be met by the network. Thus Spaur is about the network making decisions for the mobile device. Claim 1 is about the mobile device making decisions for the mobile device. Claim 1 is thus patentably distinguished over Spaur.

Discussion of Claim 2

Regarding Claim 2, contrary to the Examiner's assertion, Spaur fails to disclose or suggest, in combination with Claim 1,

... assessing the plurality of communication services relative to the communication objective for each communication before selecting one of the communication services.

In Spaur, the communication system (10) selects the optimum network channel for a particular communication with a mobile device based on an analysis of application requirements or constraints that must be met by the network. Claim 2 is thus further patentably distinguished over Spaur.

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Discussion of Claim 3

Regarding Claim 3, Spaur fails to disclose or suggest, in combination with Claim 1,

... assessing a plurality of communication services relative to the communication objective for each communication during a communication.

In Spaur, the communication system (10) selects the optimum network channel for a particular communication with a mobile device based on an analysis of application requirements or constraints that must be met by the network. Claim 3 is thus further patentably distinguished over Spaur.

Discussion of Claim 4

Regarding Claim 4, Spaur fails to disclose or suggest, in combination with Claim 1,

... receiving service information from the plurality of service providers at the device, assessing the communication services by comparing the service information received from the corresponding service providers at the device.

Spaur does not receive service information from the provider at the wireless unit. In Spaur, the channel selection decision is made by the link selector (64) at the communication system (10) (network) based on the application requirements and information in the communication link database (54), which

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is also part of the communication system (10). Claim 4 is thus further patentably distinguished over Spaur.

Discussion of Claim 5

Regarding Claim 5, Spaur fails to disclose or suggest, in combination with Claim 4,

... querying the plurality of service providers for service information before receiving the service information.

There is no disclosure in Spaur that the communication system (10) or the mobile unit queries service providers for service information. Claim 5 is thus further patentably distinguished over Spaur.

Discussion of Claim 6

Regarding Claim 6, Spaur fails to disclose or suggest, in combination with Claim 4,

... storing service information received from the service providers at the device, updating service information at the device.

There is no disclosure in Spaur that the mobile unit stores and updates service information. Claim 6 is thus further patentably distinguished over Spaur.

Discussion of Claim 7

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Regarding Claim 7, Spaur fails to disclose or suggest, in combination with Claim 1,

... establishing a communication objective by specifying whether a communication to be executed by the device is a data communication or a voice communication.

Spaur merely obtains application bandwidth, security, packet loss, and jitter requirements from the application requirements database (64). Spaur, nevertheless, performs the analysis at the communication system (network), not at the mobile wireless communications device. Claim 7 is thus further patentably distinguished over Spaur.

Discussion of Claim 8

Regarding Claim 8, Spaur fails to disclose or suggest, in combination with Claim 1,

... establishing communication objectives by specifying at least one characteristic of a communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 8 is thus further patentably distinguished over Spaur.

Discussion of Claim 9

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Regarding Claim 9, Spaur fails to disclose or suggest, in combination with Claim 8,

... assessing communication services by determining which communication service optimally satisfies the specified characteristics of the communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 9 is thus further patentably distinguished over Spaur.

Discussion of Claim 10

Regarding Claim 10, Spaur fails to disclose or suggest, in combination with Claim 1,

... establishing communication objectives by weighting at least one characteristic for each communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 10 is thus further patentably distinguished over Spaur.

Discussion of Claim 11

Regarding Claim 11, Spaur fails to disclose or suggest, in combination with Claim 10,

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... assessing the communication services by comparing the weighted characteristics of each communication to be executed to corresponding service characteristics of each of the communication services.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 11 is thus further patentably distinguished over Spaur.

Discussion of Claim 12

Regarding Claim 12, Spaur fails to disclose or suggest, in combination with Claim 11,

... selecting a communication service having service characteristics that most closely correlate with the weighted characteristics of the communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 12 is thus further patentably distinguished over Spaur.

Discussion of Claim 13

Regarding independent Claim 13, contrary to the Examiner's assertion, Spaur fails to disclose or suggest a

...method in a mobile wireless communication device for selecting communication services available to the mobile wireless communication device, comprising:

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establishing a communication objective at the device by identifying a characteristic of a communication to be executed by the device;

assessing a plurality of communication services based on communication service information received from a plurality of at least two communication service providers, by comparing the identified characteristic of the communication to be executed with a corresponding service characteristic of each of the plurality of communication services;

selecting a communication service from the plurality of communication services having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

Spaur does not assess service information at the mobile unit. In Spaur, channel information is obtained from a communication link database (54) in the communication system (10) (network), and a link selector (64) subsequently selects the channel. In Spaur, both the link database and link selector are part of the network, not the mobile unit. Spaur, col. 5, line 32 - col. 6, line 51. Claim 13 is thus patentably distinguished over Spaur.

Discussion of Claim 15

Regarding Claim 15, Spaur fails to disclose or suggest, in combination with Claim 13,

... selecting a communication service before executing the communication, and selecting a different communication service during the communication.

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Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 15 is thus further patentably distinguished over Spaur.

Discussion of Claim 16

Regarding Claim 16, Spaur fails to disclose or suggest, in combination with Claim 13,

... weighting the one or more identified characteristics of the communication to be executed,
assessing the communication services by comparing the weighted characteristics of the communication to be executed to similarly weighted corresponding characteristics of each of the communication services.

Spaur performs any weighting at the network, not at the mobile unit. Claim 16 is thus further patentably distinguished over Spaur.

Discussion of Claim 17

Regarding independent Claim 17, contrary to the Examiner's assertion, Spaur fails to disclose or suggest,

... mobile wireless communication device, comprising:
means for identifying a characteristic of a communication to be executed by the device;
means for assessing service information received from a communication service provider by comparing the identified characteristic of the communication to be executed with

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corresponding service characteristics of each of a plurality of communication services;

means for selecting a communication service from the communication service provider having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

Spaur does not assess service information at the mobile unit. Spaur obtains channel information from the communication link database (54), and selects the channel with a link selector (64). In Spaur, both the link database and link selector are part of the network, not the mobile unit. Spaur, col. 5, line 32 - col. 6, line 51. Claim 17 is thus patentably distinguished over Spaur.

Discussion of Claim 18

Regarding Claim 18, Spaur fails to disclose or suggest, in combination with Claim 17,

... means for receiving the service information from the communication service provider at the device.

Spaur does not receive service information at the mobile unit. In Spaur, channel selection occurs in the network. Claim 18 is thus further patentably distinguished over Spaur.

Discussion of Claim 19

Regarding Claim 19, Spaur fails to disclose or suggest, in combination with Claim 17,

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... means for requesting service information from the communication service provider.

Spaur does not request service information from the mobile unit. Claim 19 is thus further patentably distinguished over Spaur.

Discussion of Claim 20

Regarding Claim 20, Spaur fails to disclose or suggest, in combination with Claim 17,

... means for weighting the identified characteristic of the communication to be executed,
means for comparing the weighted characteristic of the communication to be executed to corresponding service characteristics of the service information.

Spaur does not perform any weighting at the mobile unit. Claim 20 is thus further patentably distinguished over Spaur.

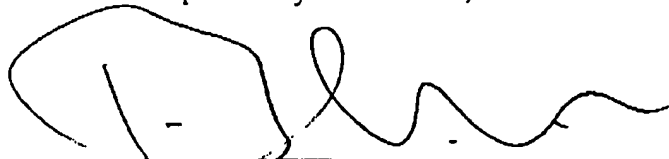
Prayer for Relief

Kindly reverse and vacate the rejections of claims, in view of the discussion above, with instructions for the Examiner to allow said Claims to issue in a United States Patent without further delay and provide other relief warranted.

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Respectfully submitted,



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Claims Appendix

1. (Previously Presented) A method in a mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device, comprising:

establishing communication objectives at the device for corresponding communications to be executed by the device;

selecting one of the communication services for each communication to be executed by the device based on the corresponding established communication objectives;

utilizing the selected communication service at least for the communication whose communication objective formed the basis upon which the communication service was selected.

2. (Original) The method of Claim 1, assessing the plurality of communication services relative to the communication objective for each communication before selecting one of the communication services.

3. (Original) The method of Claim 1, assessing a plurality of communication services relative to the communication objective for each communication during a communication.

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4. (Original) The method of Claim 1, receiving service information from the plurality of service providers at the device, assessing the communication services by comparing the service information received from the corresponding service providers at the device.

5. (Previously Presented) The method of Claim 4, querying the plurality of service providers for service information before receiving the service information.

6. (Original) The method of Claim 4, storing service information received from the service providers at the device, updating service information at the device.

7. (Original) The method of Claim 1, establishing a communication objective by specifying whether a communication to be executed by the device is a data communication or a voice communication.

8. (Original) The method of Claim 1, establishing communication objectives by specifying at least one characteristic of a communication to be executed.

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9. (Original) The method of Claim 8, assessing communication services by determining which communication service optimally satisfies the specified characteristics of the communication to be executed.

10. (Original) The method of Claim 1, establishing communication objectives by weighting at least one characteristic for each communication to be executed.

11. (Original) The method of Claim 10, assessing the communication services by comparing the weighted characteristics of each communication to be executed to corresponding service characteristics of each of the communication services.

12. (Original) The method of Claim 11, selecting a communication service having service characteristics that most closely correlate with the weighted characteristics of the communication to be executed.

13. (Previously Presented) A method in a mobile wireless communication device for selecting communication services available to the mobile wireless communication device, comprising:

establishing a communication objective at the device by identifying a characteristic of a communication to be executed by the device;

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assessing a plurality of communication services based on communication service information, received from a plurality of at least two communication service providers, by comparing the identified characteristic of the communication to be executed with a corresponding service characteristic of each of the plurality of communication services;

selecting a communication service from the plurality of communication services having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

Claim 14 (Canceled).

15. (Previously Presented) The method of Claim 13, selecting a communication service before executing the communication, and selecting a different communication service during the communication.

16. (Original) The method of Claim 13,
weighting the one or more identified characteristics of the communication to be executed,

assessing the communication services by comparing the weighted characteristics of the communication to be executed to similarly weighted corresponding characteristics of each of the communication services.

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17. (Previously Presented) A mobile wireless communication device, comprising:

means for identifying a characteristic of a communication to be executed by the device;

means for assessing service information received from a communication service provider by comparing the identified characteristic of the communication to be executed with corresponding service characteristics of each of a plurality of communication services;

means for selecting a communication service from the communication service provider having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

18. (Previously Presented) The device of Claim 17, means for receiving the service information from the communication service provider at the device.

19. (Previously Presented) The device of Claim 18, means for requesting service information from the communication service provider.

20. (Previously Presented) The device of Claim 17,
means for weighting the identified characteristic of the communication to be executed,

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means for comparing the weighted characteristic of the communication to be executed to corresponding service characteristics of the service information.